

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.10444 OF 2024
IN
WRIT PETITION NO.3656 OF 2002
WITH
WRIT PETITION NO.3656 OF 2002**

Ravindra @ Balasaheb Tryambak Shinde
since deceased through legal heirs

....Applicants

IN THE MATTER BETWEEN

Ravindra @ Balasaheb Tryambak Shinde
since deceased through legal heirs

....Petitioners

V/S

Nandalal Bansilal Dixit

since deceased through legal heirs & Anr.

....Respondents

Mr. Sushant N. Tare i/b Mr. Rameshwar N. Gite *for the Applicant / Petitioners.*

Mr. Chetan A. Alai *for Respondent No.1's Legal heirs.*

Mr. R.S. Pawar *with Ms. V.S. Nimbalkar, AGP for Respondent No.2 / State.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 13 JANUARY 2025.**

P.C.:

1. Leave granted to amend the Interim Application so as to incorporate the prayer for recall of order dated 2 January 2024. Amendment to be carried out forthwith.

2. The Interim Application is filed seeking recall of orders dated 28 July 2022 and 2 January 2024 directing that the Writ Petition is abated and dismissed on account of failure on the part of the Petitioners to bring on record legal heirs of Respondent No.1.

3. It appears that Respondent No.1 has passed away on 24 August 2019 and intimation about his death was given to the Petitioners/their Counsel by the Advocate who used to represent Respondent No.1 on 8 November 2019. Since Petitioners failed to bring on record legal heirs of deceased Respondent No.1 a praecipe was required to be moved by the learned Advocate for the Respondent before the Registrar who passed order dated 28 July 2022 recording that the Writ Petition is abated against Respondent No.1.

4. The Interim Application is filed after passage of more than five years of date of receipt of intimation about death of Respondent No.1. Considering the above negligent attitude on the part of Petitioners in prosecuting the Petition, costs are required to be imposed while setting aside the order of abatement and while permitting Petitioners to bring on record legal heirs of Respondent No.1.

5. The Interim Application is accordingly allowed. Delay is condoned. Orders dated 28 July 2022 and 2 January 2024 are recalled.

6. Petitioners are permitted to bring on record legal heirs of Respondent No.1. Amendment to be carried out within a period of three weeks.
7. Mr. Alai, the learned counsel submits that he would appear on behalf of legal heirs of Respondent No.1. Petitioners to pay costs of Rs.10,000/- to the legal heirs of Respondent No.1 by handing over Demand Draft drawn in the name of Chhaya Nandalal Dixit to Mr. Alai within a period of two weeks.
8. With the above directions, Interim Application is **disposed of**.
9. List the Petition for final hearing on **14 February 2025**.

(SANDEEP V. MARNE, J.)

Note: Corrections carried out in paragraph 7 of this order in view of the speaking to the minutes of the order dated 23 January 2025.

SUDARSHAN
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